

## **REMARKS**

Claims 1-20, 24, 81, and 85-93 were previously pending in the above-identified Application. Claims 1 and 93 have been amended. Accordingly, Claims 1-20, 24, 81 and 85-93 are presented for further consideration.

### **Response to Rejections of Claims 1, 2, 4, 6-8, 10-19, 24, 81, 89-92 under 35 U.S.C. § 102(e)**

The Office Action rejected Claims 1, 2, 4, 6-8, 10-19, 24, 81, 89-92 under 35 U.S.C. § 102(e) as being anticipated by U.S. Pub. No. 2002/0178447 by Plotnick et al. ("Plotnick"). Applicants respectfully disagree and traverse these rejections, the characterization of the pending claims, and each and every implicit and explicit official notice. However, Applicants have amended Claims 1 and 93. Applicants reserve the right to pursue the previously presented and canceled claims in one or more related applications.

The present Application was filed on October 17, 2001. Plotnick was filed after the present Application on April 3, 2002, but claims priority to two provisional applications, U.S. Prov. App. No. 60/281,037 (hereinafter, the '037 provisional application), filed on April 3, 2001, and U.S. Prov. App. No. 60/329,992 (hereinafter, the '992 provisional application), filed on October 17, 2001. Therefore, Applicants respectfully submit that Plotnick is not prior art to the Application for any matter which is not disclosed and enabled by the '037 provisional application or the '992 provisional application. *See* M.P.E.P. § 706.02(f)(1)(I)(B) ("The 35 U.S.C. 102(e) date of a reference...is its earliest effective U.S. filing date...if the prior application(s) properly supports the subject matter used to make the rejection in compliance with 35 U.S.C. 112, first paragraph.") (emphasis added).

In addition, Applicants respectfully submit that Plotnick is not prior art to the Application for any matter supported solely by the '992 provisional application because the '992 provisional application was filed on the same date as the present Application.

### **Independent Claim 1**

Although Applicant reserves the right to pursue Claims rejected in the above-referenced Office Action, Applicant amended Claim 1 to provide an additional distinction over Plotnick, and more specifically the '037 provisional application. Specifically, Applicant amended the limitation that: "steps (e) and (f) are repeated with other selected advertisements from the plurality of stored advertisements, when receiving an additional signal from a viewer control

interface indicating a viewer command to the audiovisual system to avoid a currently displayed advertisement until at least one of the plurality of stored advertisements has been displayed on the display." Plotnick does not teach or suggest such a limitation. Support for this limitation can be found at least on page 9, lines 5-15 of the application:

Yet another alternative method for displaying advertisements is to display an advertisement until the viewer actually views an advertisement. For example, if the viewer fast-forwards through a selected advertisement, another selected advertisement is displayed. The process is repeated until the user appears to have viewed an advertisement (e.g., does not fast forward through a selected advertisement, does not turn off the PVR 22, does not change channels, etc.).

Although the examiner states that Plotnick "discloses repeating these steps until an ad is watched without being skipped," Plotnick does not disclose any functionality that would guarantee the playing of an ad. For example, the figure referenced in Plotnick shows a tree that could end with only "skipped ad" decisions being made. The current claim amendment indicates functionality to force an advertisement to be displayed.

For at least the reasons stated above, Applicants respectfully request that the rejection of Claim 1 be withdrawn and that this claim be passed to allowance.

**Dependent Claims 2, 4, 6-8, 10-19, 24, 81, 89-93**

Claims 2, 4, 6-8, 10-19, 24, 81, 89-93 each depend, either directly or indirectly, from independent Claim 1. They are each believed to be patentably distinguished, *inter alia*, for the reasons set forth above in relation to Claim 1 and for the additional features recited therein and in any intervening claims. Accordingly, Applicants respectfully request that the rejections of Claims 2, 4, 6-8, 10-19, 24, 81, 89-92 be withdrawn and that these claims be passed to allowance.

Additionally, Claim 93 has been amended to be distinguished further from Plotnick. As the examiner recognized, neither the selection of a power off command nor a change channel command are described in Plotnick as means for avoiding an advertisement and triggering selection of and display of a new advertisement. For the same reasons, Applicant respectfully requests that this new claim be passed to allowance.

**Response to Rejections of Claims 3, 5, 9, 20, 85-88 under 35 U.S.C. § 103(a)**

The Office Action rejected Claims 3, 5, 9, 20, 85-88 under 35 U.S.C. § 103(a). Claim 5 was rejected as being unpatentable over Plotnick in view of U.S. Pat. No. 6,718,551 to Swix et

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al. ("Swix"). Claim 20 was rejected as being unpatentable over Plotnick. Claims 3 and 9 were rejected as being unpatentable over Plotnick in view of U.S. Pat. Pub. No. 2003/0110499 Knudson et al. ("Knudson"). Claims 85-88 were rejected as being unpatentable over Plotnick in view of U.S. Pat. Pub. No. 2002/0083442 to Eldering ("Eldering"). Applicants respectfully disagree and traverse these rejections, the characterization of the pending claims, and each and every implicit and/or explicit official notice.

It is respectfully suggested that neither Plotnick, Swix, , Eldering, nor Knudson—alone or in combination—teach or suggest all of the limitations of Claim 1 including repeating "steps (e) and (f) ... with other selected advertisements from the plurality of stored advertisements, when receiving an additional signal from a viewer control interface indicating a viewer command to the audiovisual system to avoid a currently displayed advertisement until at least one of the plurality of stored advertisements has been displayed on the display."

Accordingly, Applicants respectfully request that the rejections of The Office Action of Claims 3, 5, 9, 20, 85-88 be withdrawn and that these claims be passed to allowance.

**No Disclaimers or Disavowals**

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, Applicants are not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. Applicants reserve the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that Applicants have made any disclaimers or disavowals of any subject matter supported by the present application.

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Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 23-1209

Respectfully submitted,

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